

No. 11117

2416

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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CLIFFORD J. JUDD,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Upon Appeal from the District Court of the United States  
for the Northern District of California,

Southern Division

FILED

JAN 21 1946

PAUL F. O'BRIEN,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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In the Southern Division of the United States  
District Court for the Northern District of  
California

No. 29407-G

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIFFORD J. JUDD and FRANK EDWIN  
SHELEY,

Defendants.

### INFORMATION

(Title 18 USCA Section 241.)

Now comes Frank J. Hennessy, United States Attorney for the Northern District of California, and by leave of Court first had obtained, informs this Court; That Clifford J. Judd and Frank Edwin Sheley (hereinafter called "said defendants"), on or about the 19th day of April, 1945, at the City and County of San Francisco, State of California, within said Division and District, did knowingly, wilfully and unlawfully, by threats and by force, endeavor to influence, intimidate and impede one Lester Dale Haliman, the said Lester Dale Haliman being a witness in the United States District Court for the District of Nevada in the case of the United States vs. Clifford J. Judd and William N. Beatty, a proceeding before the said District Court for the

District of Nevada, as the said defendants then and there [\*1] well knew.

FRANK J. HENNESSY

United States Attorney

United States of America,  
State and Northern District of California,  
City and County of San Francisco—ss.

W. G. Whitfield, being first duly sworn on oath, says: That I am an Investigator of the Alcohol Tax Unit, Bureau of Internal Revenue, Treasury Department; I have read the foregoing Information and the facts therein are true of my own knowledge.

W. G. WHITFIELD

Subscribed and sworn to before me this 30th day of April, 1945.

[Seal] C. M. TAYLOR

Deputy Clerk, U. S. District Court, Northern District of California

[Endorsed]: Presented in Open Court and Ordered. Filed May 1, 1945. [2]

District Court of the United States, Northern  
District of California, Southern Division

At a Stated Term of the Southern Division of  
the United States District Court for the Northern  
District of California, held at the Court Room  
thereof, in the City and County of San Francisco,  
on Tuesday, the 1st day of May, in the year of our  
Lord one thousand nine hundred and forty-five.

Present: The Honorable Louis E. Goodman,  
District Judge.

No. 29407-G

UNITED STATES OF AMERICA,

vs.

CLIFFORD J. JUDD.

ARRAIGNMENT AND PLEA OF "NOT  
GUILTY" BY DEFENDANT

In this case the defendant, Clifford J. Judd, was  
present in proper person and with his attorney,  
Fred McDonald, Esq. Reynold H. Colvin, Esq.,  
Assistant United States Attorney, was present on  
behalf of the United States.

On motion of Mr. Colvin, the defendant was  
called for arraignment. The defendant was in-  
formed of the filing of the Information by the  
United States Attorney, and asked if he was the  
person named therein, and upon his answer that he  
was, and that his true name was as charged, said

defendant was informed of the charge against him and stated that he understood the same. Mr. McDonald waived the reading of the Information.

The defendant was called to plead and thereupon said defendant pleaded "Not Guilty" to the Information filed herein against him, which said plea was ordered entered.

After hearing the attorneys, it is ordered that this case be continued to June 6, 1945, for trial. (Jury) [3]

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In the Southern Division of the United States  
District Court for the Northern District of  
California, First Division

No. 29407

THE UNITED STATES OF AMERICA

vs.

CLIFFORD J. JUDD and FRANK EDWIN  
SHELEY

VERDICT

We, the Jury, find as to the defendants at the bar as follows: Clifford J. Judd, Guilty; Frank Edwin Sheley, Not Guilty.

KIRBY B. CRITTENDEN  
Foreman

[Endorsed]: Filed June 8, 1945. [4]



District Court of the United States, Northern District of California, Southern Division

No. 29407-G

UNITED STATES

vs.

CLIFFORD J. JUDD.

Criminal Information in one count for violation of Title 18 USCA Section 241.

On this 8th day of June, 1945, came the United States Attorney, and the defendant Clifford J. Judd appearing in proper person, and by counsel, and,

### JUDGMENT AND COMMITMENT

The defendant having been convicted on verdict of guilty of the offense charged in the Information in the above-entitled cause, to wit: Viol. Title 18 USCA Section 241. Defendant did, on April 19, 1945, in San Francisco, California, unlawfully endeavor to influence a certain individual, said individual being a witness in the United States District Court for the District of Nevada, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is By The Court

Ordered and Adjudged that the defendant, having been found guilty of said offense, is hereby com-

mitted to the custody of the Attorney General or his authorized representative for imprisonment for the period of six (6) months, and pay a fine to the United States of America in the sum of Five Hundred (500.00) Dollars.

Entered in Vol 36 Judg and Decrees at page 128.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) LOUIS E. GOODMAN

United States District Judge

Examined by:

REYNOLD H. COLVIN

Assistant U. S. Attorney

The Court recommends commitment to a County Jail.

Filed and Entered this 8th day of June, 1945.

(Signed) C. W. CALBREATH

Clerk

(By) L. R. ELKINGTON

Deputy Clerk

Entered in Vol. 36 Judg. and Decrees at Page 128. [5]

[Title of Court and Cause.]

### NOTICE OF APPEAL

Name and Address of Appellant: Clifford J. Judd, 529 Mill Street, Reno, Nevada.

Name and Address of Appellant's Attorney: Fred McDonald, 935 Mills Building, San Francisco, California.

Offense: Violation of Section 241, Title 18, United States Code Annotated.

That Clifford J. Judd and Frank Edwin Sheley did, on or about the 19th day of April, 1945, at the City and County of San Francisco, State of California, knowingly, willfully and unlawfully, by force and threats, endeavor to intimidate and impede one Lester Dale Haliman, the said Lester Dale Haliman being a witness in the United States District Court for the District of Nevada in the case of the United States vs. Clifford J. Judd and William N. Beatty, a proceeding before said United States District Court for the District of Nevada, as the said defendants then and there well knew.

Judgment Date: June 8, 1945.

Description of Judgment and Sentence: "Guilty." Sentence: Six months in the County Jail and to pay a fine of \$500.00.

Name of prison where now confined: County Jail of the City and County of San Francisco.

I, the above named appellant, do hereby appeal to the United States Circuit Court of the Ninth



Circuit from the judgment above described upon the grounds set forth below: [6]

## GROUND OF APPEAL

### I

That the learned trial judge committed errors in law arising during the course of the trial and erred in decisions on questions of law arising during the course of the trial.

### II

That the evidence produced and received upon the trial of said cause was insufficient as a matter of law to justify the verdict of the jury.

### III

That the court erred in not granting the motion of the defendant for a new trial.

### IV

That the court erred in not granting the motion of the defendant for arrest of judgment.

Dated: June 9, 1945.

CLIFFORD J. JUDD

Appellant

FRED McDONALD

Attorney for Appellant

(Acknowledgment of receipt of copy.)

[Endorsed]: Filed June 9, 1945. [7]

In the United States District Court for the Northern District of California, Southern Division

No. 29407-G

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIFFORD J. JUDD and FRANK EDWIN  
SHELEY,

Defendants.

### ASSIGNMENT OF ERRORS

Now comes the defendant Clifford J. Judd, in the above entitled action who has heretofore appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the verdict and judgment of conviction heretofore made, entered and given against him in the above entitled cause pending in the Southern Division of the United States District Court for the Northern District of California, and files this, his Assignment of Errors, upon which he will rely in the prosecution of his said appeal to the United States Circuit Court of Appeals.

#### I

That the Court erred in admitting in evidence over the defendant's objection the certified copy of indictment and the record of the cause in action No. 11171, United States of America, plaintiff vs. Clifford J. Judd, et al, pending in the United States District Court for the District of Nevada. [8]

II

That the Court erred in admitting in evidence over the objection of said defendant the testimony of the witness Dale Haliman concerning a conversation, taking place on April 4, 1945, in the Streets of Paris Cafe in the City and County of San Francisco.

III

That the Court erred in admitting in evidence testimony as to conversations taking place in Reno, Nevada, on or about the 27th day of March, 1945.

IV

That the Court erred in refusing to strike from the record all of the testimony of the witness Mrs. Bonita Yaggie.

V

That the Court erred in overruling the objection of the defendant to testimony of the witness Mrs. Marie V. Cole as to testimony concerning threats made to said witness.

Wherefore said defendant, Clifford J. Judd prays that the judgment of said District Court be re-

versed and that said information against him be quashed and that he may go hence without delay.

FRED McDONALD

JOSEPH P. LACEY

HARMAN D. SKILLEN

Attorneys for said Defendant

Receipt of copy of the above Assignment of Errors admitted this 31st day of July, 1945.

FRANK J. HENNESSY

United States Attorney

By REYNOLD H. COLVIN

Assistant to United States  
Attorney

[Endorsed]: Filed Aug. 25, 1945. [9]

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[Title of District Court and Cause.]

### PROPOSED BILL OF EXCEPTIONS

Be It Remembered that the above entitled cause came on regularly for trial before the Court, with a jury, Reynold H. Colvin, Esq., appearing for the United States of America and Fred McDonald, Esq., appearing as counsel for the defendants Clifford J. Judd and Frank Edwin Sheley, Honorable Louis E. Goodman, Judge of said court, presiding. Thereupon the following proceedings were taken and had:

The United States Attorney made an opening statement of the matters and things he expected to

prove. Counsel for the defendants reserved his right to make an opening statement at the conclusion of the government's case. Thereafter the following proceedings took place:

Mr. Colvin: May it please the Court at this time the government will offer in evidence certain documents to-wit, certified copy of an indictment, in case No. 11171 in the District Court of the United States of America in and for the District of Nevada, United States of America, plaintiff, vs. William Nelson [10] Beatty, Jr., and Clifford J. Judd; and a copy of the docket entries in that case No. 11171. I call the Court's attention at this time to the fact that there are stapled together.

Mr. McDonald: Of course, if your Honor please, I think, your Honor, Mr. Colvin should not make any statement of what is stapled together.

Mr. Colvin: Other papers—we make the limited offer to that No. 11171.

Mr. McDonald: To which we object as incompetent, irrelevant and immaterial. The proper foundation has not been laid. It has not been shown that this defendant is the defendant mentioned in the papers that Mr. Colvin has in his hand. We have the further objection that these papers are not the best evidence, that there is no showing why the original records of the Court have not been brought here. We submit the objection on those grounds.

The Court: You are only offering the papers in case No. 11170?

Mr. Colvin: No, 11171, your Honor.



The Court: You are not offering the papers in 11170?

Mr. Colvin: I am not offering those.

The Court: So I can understand, you are only offering the papers in the case where the two defendants are named?

Mr. Colvin: That's right.

The Court: And not in the case where there is one defendant?

Mr. Colvin: Yes, your Honor.

The Court: I will overrule the objection, and I will note an exception for you. You better read them to the jury and separate them.

#### EXCEPTION NO. 1

Mr. Colvin: I want to point out, however, so far as the certification is concerned that can be separated.

The Court: The certification as to both sets of documents?

Mr. McDonald: If your Honor overrules my objection we can [11] dispense with the certification as far as the jury is concerned, although having it before the Court subject to the reservation of the objection heretofore made.

The Court: The documents may be treated as certified without showing the certification to the jury, and you may detach the papers you wish to present.

Mr. Colvin: We want the indictment in No. 11171 and the docket entries in 11171 of the District Court of Nevada.

(The indictment in case No. 11171 in the United States District Court for the District of Nevada marked “U. S. Exhibit No. 1”; docket entries in the same case marked “U. S. Exhibit No. 2”).

Mr. Colvin: May it please the Court, I should like the Court’s permission at this time to read government’s Exhibit No. 1 to the jury, simply because their understanding of the indictment.

The Court: It is in evidence. You may read it if you wish.

Then Mr. Colvin read government’s Exhibit No. 1 to the jury as follows:

“Filed April 16th, 1945. O. E. Benham, Clerk.  
By J. P. Fodrin, Deputy.

MILES N. PIKE

United States Attorney

“In the District Court of the United States of  
America, in and for the District of Nevada

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM NELSON BEATTY, JR., and CLIF-  
FORD J. JUDD,

INDICTMENT FOR VIOLATION

Sec. 88, T. 18, U.S.C.

United States of America,  
District of Nevada—ss. [12]

“Of the February, 1945, Term of the District

Court of the United States of America, in and for the District of Nevada;

“The grand Jurors of the United States of America, duly chosen, selected and sworn, within and for the District of Nevada, in the name and by the authority of the United States of America, upon their oaths do find and present:

“That William Nelson Beatty, Jr., and Clifford J. Judd, defendants named above, whose other or true names are to these Grand Jurors unknown, on or about March 15, 1945, and during all the times hereinafter mentioned, at Reno, Washoe County, State and District of Nevada, and within the jurisdiction of this Court, did unlawfully, wilfully, knowingly and feloniously, combine, conspire, confederate and agree together and with each other, to commit offenses against the United States by means and in the manner following, that is to say:

“That at all times herein mentioned, defendant Clifford J. Judd, should keep and maintain at the Depot Bar on Commercial Row in Reno, Nevada, a quantity and supply of intoxicating liquors, to-wit: whiskey; that said Clifford J. Judd should, from time to time, sell, or consign, and deliver quantities of such intoxicating liquor to defendant, William Nelson Beatty, Jr., for transportation from Reno, Nevada, to Salt Lake City, Utah, with the intention in each of said defendants, then and there, that said liquor should be sold and used in the State of Utah in violation of the laws of the State of Utah; that defendant, William Nelson Beatty, Jr., should



receive delivery of said liquor from Clifford J. Judd, and should transport it from Reno, Nevada, to Salt Lake City, Utah, for sale and use in the State of Utah, in violation of the laws of said State; that the liquor so sold or consigned and delivered by Clifford J. Judd to William Nelson Beatty, Jr., and received by the latter, should be sold and disposed of by William Nelson Beatty, Jr., to a person or persons [13] to these Grand Jurors unknown, at prices in excess of the ceiling prices fixed and established for such liquor under and pursuant to Emergency Price Control Act of 1942, as amended, and the Rules and Regulations promulgated pursuant thereto.

“And the Grand Jurors aforesaid, do further present and charge that said defendants having formed the conspiracy, confederation and agreement to execute and do the unlawful acts and things hereinabove set forth, and in pursuance of such unlawful and felonious conspiracy, confederation and agreement, and to effect the objects and purposes thereof, said defendants did commit and perform, among others, the following overt acts:

“(1) On or about March 15, 1945, said defendants, Clifford J. Judd and William Nelson Beatty, Jr., conferred together regarding the objects and purposes and execution of such conspiracy, at the Depot Bar in Reno, Nevada.

“(2) On or about March 16, 1945, defendant, William Nelson Beatty, Jr., purchased from the Matthews Motor Company, in Reno, Nevada, a 1940

Oldsmobile Sedan, for use in the transportation of the liquor.

“(3) On or about March 18, 1945, Clifford J. Judd and William Nelson Beatty, Jr., removed fourteen (14) cases of pints and four (4) cases of fifths, of Old Token Blended Whiskey, 86 proof, from the basement of the Depot Bar in Reno, Nevada, and loaded said whiskey into the said Oldsmobile Sedan automobile.

“(4) On or about March 18, 1945, William Nelson Beatty, Jr., drove said Oldsmobile Sedan automobile, containing said eighteen (18) cases of Old Token Whiskey, from Reno, Nevada, to Elko, Nevada, enroute to Salt Lake City, Utah.

“(5) On or about March 19, 1945, at Reno, Nevada, defendant, William Nelson Beatty, Jr., sent a telegraphic message by Western Union to defendant, Clifford J. Judd, as follows: “Blown head gasket at Stockmen’s Hotel leave tomorrow p. m.” [14]

“Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

/s/ MILES N. PIKE

United States Attorney

“A True Bill:

/s/ HARRY GRAY,

Foreman.”

(Transcript, p. 5, line 25, to p. 9, line 16)

## LESTER DALE HALIMAN,

called as a witness on behalf of the United States, being first duly sworn, testified in substance as follows:

The Clerk: Q. Will you state your name to the Court and jury?           A. Lester Dale Haliman.

## Direct Examination

By Mr. Colvin:

I was before the grand jury at Carson City, Nevada, on April 16, 1945. I testified before the grand jury. I have heard the reading of an indictment which is government's Exhibit No. 1 in this courtroom. I testified to the facts set forth in that indictment. I came back to Reno after testifying and took the train that night and returned to San Francisco the next day. I got in in the morning. I got in the morning of the 17th at approximately seven o'clock. I think it was the night of the [15] 19th, the first night I worked. I didn't work this side. On the 19th of April 1945 I was employed at the Below Decks at 1285 Market Street. My employment there was a service bartender. I believe I went to work at about five o'clock or a little before. I know Clifford Judd. He is sitting directly behind you in the courtroom. I will point him out to the Court and ladies and gentlemen of the jury. (The witness identified the defendant Judd). I know Frank Sheley. He is here in the courtroom. He is the gentleman over there with glasses. (The witness identified the defendant Sheley.) I saw both of them on

(Testimony of Lester Dale Haliman.)

the 19th of April 1945. I saw them at the Below Decks where I was employed. I would say that I saw them somewhere in the vicinity of eight or nine o'clock in the evening. I saw Judd first. The Below Decks is below the street level. If you are facing the building on the extreme left hand side is the entrance to the building. When you reach the bottom of the stairs there is a bar on the other side of the room. The bar would be across the room, and I imagine the room is twenty-five or thirty-five feet wide. Perhaps that, or more. I am not a very good judge of distance, perhaps more. I first saw Judd when he got to the bottom of the stairs. I do not know whether there was anyone with him. I did not see Sheley until a few minutes later. Judd reached the bottom of the stairs. He walked across the room toward me, smiled and said, "Helloe Dale," and I said, "Helloe Cliff." I then came back to the bar, and I noticed Sheley then. He was standing ten or fifteen feet away. That was the first time I saw Sheley. Judd said, "I heard you were exonerated," and I said, "Yes, that's right," and he said "Sheley was exonerated, too. He got a letter," and he said, "How did you know you were?", and I said, "I got a letter, too." He said, "What did the letter say?" and I said, "Well, just something to the effect that my bond had been liberated and I had been [16] exonerated." He said, "Have you seen Bill?" and I said, "No," and he said, "Are you all through or will you be going back there to testify?" and he said, "If you are, you had better not", and he asked



(Testimony of Lester Dale Haliman.)

me again—. Perhaps I could show you the relative position of myself and Mr. Judd while this conversation took place. The service bar at the Below Decks, where I am employed, is at one end of the bar. I handle no service for the front bar patrons; just for our cocktail waitresses. I believe that night there were four working. It is hard to describe. Right directly in front of me like a space—so I took my station where the waitresses come for the drinks, and there is a rail coming down over the bar. This is on my left, and there are stools for the front bar. My mother was sitting in the corner by the rail with the stool closest to me. When Judd came up to the bar he came right beside her and when I was talking to him most of the time I was leaning over in that direction, and there is a cooler that projects on the inside of the bar that sticks out so far, (the witness indicating about three feet). I think that explains it pretty well. I gave you part of the conversation. The next thing that happened, he asked me to repeat how the letter was worded, and I said, “I don’t know exactly, just something to the effect that I had been exonerated and I had been liberated,” and with that,—do you want me to give you the exact words he said?

The Court: That is up to the United States attorney.

Mr. Colvin: I am asking you to state the conversation.

Witness: He said, “You are a damn liar,” and reached across the bar and struck me on the side

(Testimony of Lester Dale Haliman.)

of the head, and my mother was sitting there and said, "How dare you strike Dale?" He said, "Who the hell are you?" And she says, "I happen to be his mother." He said, "We want to see you outside" and left. I don't believe Sheley was within earshot during this conversation. He was [17] approximately ten feet away. The next thing that happened, Sheley came over and said that he and Judd had seen signed statements by Bill Beatty and I to the effect that Judd purchased the liquor from Sheley, and I denied that. He asked me where I could find Beatty and if I could tell him where he was. I told him I did not know. He told me I did know, and I was a liar. I said, "It doesn't make any difference whether I did or not, and if I did know I wouldn't tell you anyway." And he said, "Is that your answer?" And I said, "Yes." They said they were very anxious to find Beatty, and he said he wouldn't blame Judd for killing anyone that testified because he would do the same thing himself. There was more conversation. I don't remember it word for word, except Sheley said he was pretty mad about the case, that it cost him a lot of money, and he told me Judd wanted to be my friend, and he said that he was half crazy, that he was upset, and that he was facing the penitentiary, and that he believed that he had been drinking. That was all the conversation. He talked to my mother as well. I couldn't hear that; just a word once in a while. I had no further conversation with Judd. Judd had left. I was present at this conversation with my mother.

(Testimony of Lester Dale Haliman.)

This was a conversation between my mother and Sheley.

I had been arrested in connection with the case in Nevada. At the time I appeared before the grand jury I was under arrest in that case. I was not indicted. The earliest conversation I had with Mr. Judd regarding this case was April 3, 1945, in the Streets of Paris in San Francisco, where I was also employed. This took place, I think, about five o'clock in the evening. There was present besides myself and Judd, Miss Bonita Yaggie.

Mr. Colvin: Q. With reference to the case at Reno, Nevada, what conversation did you have with Mr. Judd?

Mr. McDonald: If your Honor please, I will object to this as incompetent, irrelevant, and immaterial, and further that it [18] goes to a transaction not laid in the indictment, and I can see that it has no place in this case. This is a case of a threat made upon April 19.

Mr. Colvin: May it please the court—

Mr. McDonald: Mr. Colvin is attempting to elicit a conversation that took place before there was any indictment returned in Nevada. The date he fixes is the return of the indictment, which is April 16, and this is on April 3rd.

Mr. Colvin: It is obviously an element of this case as to whether Mr. Judd had knowledge that Mr. Haliman would be called as a witness in this case at Reno, Nevada. The purpose of this conversation is to indicate that Mr. Judd had such knowledge.

(Testimony of Lester Dale Haliman.)

The Court: I will overrule the objection.

Mr. McDonald: Exception.

The Court: You may have an exception.

## EXCEPTION No. 2

Judd came into the bar and asked me if I had seen Bill Beatty, the defendant, and I told him I hadn't. He asked me when the case was coming up, if I knew, and I said I was about to be called before the grand jury on the 16th, but I wasn't sure of the date, and he talked over the case quite a bit. He told me he wasn't going to ride the beef on the liquor and destroying the serial numbers. He said he would have to say we stopped somewhere along the road and destroyed them ourselves. He admitted that he destroyed them. He told me that he was going to have our bonds raised and that the bondsman was a friend of his, and he didn't care if he raised his along with ours, that he had plenty of money. I understood that we would have to stay in jail unless we could raise money to meet our bonds. He also told me he was going to have me picked up for the El Cortez robbery in Reno. I told him that was silly because I could [19] prove where I was that night, and he said he didn't know about that, that I will be picked up, and that he had known that, and he told me if I testified against him I would be dragged into the case, too, and that is about the text of it. He got up and left. This conversation lasted about fifteen minutes at the most. I cannot think of any-



(Testimony of Lester Dale Haliman.)

thing I haven't told you. There was a conversation before this in reference to this case. I believe it was on the 27th of March. It took place in Nevada. I had two conversations with him. They were both on the same day, on the 27th of March. One took place in the Waldorf. It is a restaurant and bar in Reno. I think it was late in the afternoon at about approximately four o'clock. There were a number of people present, but I don't think anyone was within ear-shot. No one else was a party to the conversation.

Mr. Colvin: Q. What was the conversation as it related to the Nevada case?

Mr. McDonald: We object to that as incompetent, irrelevant and immaterial, as a transaction not laid within the issued of this indictment. It is remote and far afield, and incompetent, irrelevant, and immaterial.

The Court: Is this offered for the same purpose as the other?

Mr. Colvin: Yes, your Honor.

Mr. McDonald: May I state, the other conversation, your Honor, was offered to show, and I presume limited to that purpose, to show that Mr. Judd knew this defendant was a witness. I listened very attentively to the conversation and while it contained a number of prejudiced remarks supposed to have been made by Mr. Judd, I don't see yet where it showed that this man was going to be a witness.

The Court: I think the objection goes to the weight of that testimony. I don't know whether

(Testimony of Lester Dale Haliman.)

you are making now a fur- [20] ther objection to that testimony, or to the proposed testimony.

Mr. McDonald: I ask that be stricken, and I am objecting to this testimony.

The Court: I will deny your motion and you may have an exception. For the same purpose this conversation now about to be stated by the witness will be admitted, and an exception will be noted.

Mr. Colvin: The government is offering these conversations to show that the defendant Judd had knowledge that Mr. Haliman would be a witness in this transaction, and that there was such a case pending at that time, and would be pending. The conversation will relate to those matters.

### EXCEPTION No. 3

He asked me what Bill had told him, that is, the investigators in Elko, and he asked me what he had told him. My answers were more or less vague. He asked me where Bill was, and I told him as far as I knew he was in San Francisco. He asked me where in San Francisco, and I told him I didn't know. He told me he would like to get in touch with him and asked me why Bill didn't come to see him in Reno, and I said, "Because I thought Bill was afraid of him," and he said, "That's a fine idea for him to bear in mind." That is about all. I saw him again that evening, just before I left on the train. I saw him at the depot at approximately

(Testimony of Lester Dale Haliman.)

10:30. I did not have an appointment with him. However, I was to see him later that evening. I called him from the depot. He came about five minutes after I called him because his bar is just across the street from where I called from. Just Judd and I engaged in the conversation.

Mr. Colvin: Q. What was that conversation, and I am offering it for the same purpose, your Honor.

Mr. McDonald: I make the same objection.

The Court: Same ruling, and an exception may be noted. [21]

#### EXCEPTION No. 4

He asked me more about Bill and the statements he made. I believe I did tell him at the time he had taken the serial numbers off the liquor. He asked me if I saw Bill to contact him. He told me he would like to find Bill and shut him up. He said he knew he could and he knew he could get him back in San Francisco, and he had friends in Alturas, that Bill lived there as well. There was something else, he told me he could buy his way out if he wanted to, but Bill put the finger on him and he was going to dump the whole thing in his lap. He asked for it. I don't believe that he said anything else. The date and place of the next conversation was April 3rd, at the Streets of Paris. That was the conversation I have already testified to. I had no further con-

(Testimony of Lester Dale Haliman.)

versations with the defendant before I testified before the grand jury. After I testified before the Grand jury the first conversation I had with him was at the Below Decks. I have been convicted of a felony. It was robbery in San Francisco in 1937. I am not on parole now. I have been discharged since October 1942. I have not been convicted of any other felonies.

Mr. Colvin: I have no further questions at this time.

The Court: We will take a recess at this time ladies and gentlemen of the jury. I want to advise you at this time to bear in mind the admonitions of the Court, that it is your duty not to converse among yourselves or with any other persons connected with the trial of this case, nor are you to form or express any opinion thereon until the case is finally submitted to you.

(Thereupon the Court took a recess for ten minutes.)

The Court: The jurors are present. You may proceed.

The Witness: (Continuing): Mr. Judd hit me on the left side of the head. He hit me with his right hand. There was nothing [22] in his hand when he hit me. I did not fall pursuant to the blow. I did not go backwards. He startled me when he hit me. That is all.



(Testimony of Lester Dale Haliman.)

Cross-Examination

By Mr. McDonald:

I was just startled; I was not frightened. My name is Lester Dale Haliman. I spell it H-a-l-i-m-a-n. Correctly, it is Halima, without the "n".

It is true that I have been convicted of a felony. I was convicted of a felony under the name of Lester Dale Haliman. I did not give my name to the District Attorney as "Haliman" for the purpose of concealing that fact. I have been convicted of one felony. I was not convicted of a felony in Stockton. I was arrested about the 18th day of March of this year in Elko, Nevada. I was arrested with a man by the name of William Beatty. I did not have certain liquor in my possession at that time. There was certain liquor in Mr. Beatty's automobile. I had driven from Reno to Elko with Mr. Beatty. I was arrested in Elko. I gave bond in that case. We posted bond before the United States Commissioner in Elko. I was represented by counsel there—Mr. Taylor Wines.

I believe that Mr. Judd was subsequently arrested. I was not present when he was arrested. Mr. Sheley was arrested also. They were arrested in the same case.

The man I refer to as "Bill" is Mr. William Nelson Beatty, Jr., who was arrested at the same time and place as I was. I do not know the date of the arrest. It was approximately the 18th. I had a hearing before the United States Commissioner. I am

(Testimony of Lester Dale Haliman.)

not really sure about whether it was a hearing. I believe the attorney waived a hearing. I was held to answer.

We were released on bail the following Sunday and I left that night and came to Reno. I left Reno the following [23] Tuesday night, I believe the night of the 27th. I was arrested Sunday, March the 18th, and released the following Sunday.

I met Mr. Judd and Mr. Sheley at the Below Decks Bar in this city on the 19th of April. It was approximately 8 or 9 o'clock in the evening. I first saw Mr. Judd at the service bar. It is directly across the room from the bottom of the stairs. You go downstairs and turn to the right to come in and the bar is straight across from you at the far side of the room. The service bar is at one end. If you are facing the bar, it would be the left end, not the extreme end, because there is a service bar too where they serve food. You come in the entrance and the stairs would be on that side on the corner and the bar is over there. The service bar is like this. There is another counter where they serve food and my station is right there and the rest of it is the main bar.

I did not see Mr. Judd when he came down the stairs but just afterwards. I had not told Mr. Judd that I was working at the Below Decks Bar. He came back and asked me if I had heard anything in the case in Reno. He said he heard "You were exonerated." I said, "Yes, so I am told," or something to that effect. He was standing next to

(Testimony of Lester Dale Haliman.)

my mother, about three feet from me, a little bit to my left. I had to lean across the bar to hear him. I don't know that he is quite deaf. I have not known Mr. Judd very long. I met him in Reno. I met him in company with Mr. Beatty. Mr. Beatty introduced me to him. I knew Mr. Beatty very well. That was a few days before our arrest in Elko. Mr. Beatty had been employed by him for some time. Mr. Beatty was a bartender. I have been a bartender. I don't know that Mr. Judd is deaf. I don't recall ever having difficulty in conversation with him. My voice is fairly well modulated, I think. He said, "I heard you were exonerated." He then told me that Sheley had been exonerated too and that he [24] had gotten a letter. Mr. Sheley was also a defendant in this same case. Then he asked about Bill. I told him I had not heard from him. If I did, I wasn't going to tell him. I knew where he was. He then asked me what was in the letter I got and if I was all through, if I would be called back to testify. He called me a liar and struck me and told me I wasn't through and he wanted to see me outside. When he asked me if I would be called back, he told me I had better not, and I told him I didn't know. I have had no further conversation with him since except here in court. I had another conversation over the phone with him. I did not tell him the whole thing could be straightened out for \$500.00. I do not know of anyone in my family phoning him, or anyone close to me phoning him. I do not know whether

(Testimony of Lester Dale Haliman.)

any friends did so at my direction. I do not believe so.

### Redirect Examination

By Mr. Colvin:

I was going to Salt Lake. My wife and I were making a visit to Salt Lake to visit her people. I had been in pretty close contact with Bill Beatty. He was working at Alturas. I would phone occasionally. I knew he was planning to be in Reno, so I wired him when he intended to be there. The plane was grounded on account of weather conditions and we took the train. We planned to continue by train or plane to Salt Lake City. When my wife got a reservation to Salt Lake, I was not able to get a berth, so I planned to take a later train. I knew that Bill was driving. Bill offered me a ride to Salt Lake City and I accepted.

He was employed by Warren Wilson in Alturas. Whether or not he was still working for him, I do not know; that was the last job I knew of. I do not remember the name of the bar but it was Alturas. I was not employed by Mr. Judd at that time. [25] I did not have any transaction with regard to the liquor with Mr. Judd or Mr. Beatty. I do not know exactly when I left Reno for Salt Lake City. I think it was about two days after I arrived in Reno. I did not have any conversation with Judd about the ride from Reno to Salt Lake City. I saw Mr. Judd on two or three occasions when Bill would go down to talk with him. I was more or less in the position of a hitch hiker.



(Testimony of Lester Dale Haliman.)

Recross-Examination

By Mr. McDonald:

It is not a fact that Mr. Beatty and I intended to open a bar in Elko. I never told Mr. Beatty that. I did not tell Mr. Beatty anything about trying to purchase a gun in Reno. I did not have a gun when I was in Reno. I did not have a gun when I was arrested in Elko. Mr. Beatty, I believe, had two guns.

The conversation at the Streets of Paris was not about \$45.00. I did not tell Mr. Judd that I purchased this gun that Mr. Beatty was found with in Elko, one of these guns, and that it was my gun but that I wanted Beatty to take the fall for it and admit the possession of it because my being an ex-convict, the possession of a gun in the State of Nevada would be a felony. I do not recall discussing with Mr. Judd the fact that two guns were found in the room occupied by Mr. Beatty and myself at Elko. There were two guns found at that time and place. I do not recall having discussed with Mr. Judd the fact that I had been convicted of a felony.

My wife was in Reno with me. We stayed at the El Cortez. When she left on this trip to Salt Lake City, we were staying at the El Cortez—that was in the middle of March of this year. Mr. Beatty was a bartender. He had been employed at Alturas. I do not know whether or not he was employed at Reno. Mr. Beatty was staying at the

(Testimony of Lester Dale Haliman.)

El Cortez too. I do not know whether or not he was working. After my wife left, he and I occupied the same [26] room. I do not know whether or not he was working for Mr. Judd but he was not gone long enough to be on an eight-hour shift as a bartender, if that is what you mean.

I went to the Depot Bar in Reno several times. I contacted Mr. Beatty by wire. I wired him in care of the Depot Bar. I wired him there because he told me it was the best place to contact him. He did not know where he would be staying but he had a friend that owned that place. He did not tell me he was working at the Depot Bar. He told me he had considerable money, about several thousand dollars. I saw the money. He did not have much cash; he had a check book with him. In Reno, I do not believe he had more than \$1000.00.

There was nothing discussed between Mr. Judd and myself about the purchase of a bar. There was nothing said about purchasing a bar in Elko. I knew nothing about Elko. Beatty and I did not discuss opening a saloon in Reno. We were out to The Cedars but there was no discussion about purchasing it. Beatty once in a while gets wild ideas about things like that but he did not give it serious thought.

We left from the El Cortez. I did not load the liquor into the car; I did not assist in the loading of the liquor. I knew the liquor was in the car. We were arrested immediately after we got to Elko; it was the following day. We went to a hotel. I

(Testimony of Lester Dale Haliman.)

did not register; Beatty registered for both of us. I paid the hotel bill when I got out of jail. It was my intention to share it. There was no reason why I did not register. I do not know the exact time we were arrested; I would say it was approximately 9 or 10 o'clock in the evening. We were arrested by the sheriff, under-sheriff and two or three city officers. We remained in jail for about a week. A bail bondsman was sent from Reno. I paid for the bail out of my own pocket. I returned to Reno. I saw Mr. Judd. I saw him first [27] in the restaurant and then again at the depot, but not in the bar. When I say "the depot," I mean the Southern Pacific Depot, the train depot. I had a conversation with him. He was very anxious to find Mr. Beatty. Mr. Beatty was in Reno at that time but he had not seen Mr. Judd. Mr. Judd asked me if I knew where he was. Mr. Judd, Mr. Beatty, Mr. Sheley and myself were co-defendants in the case. Mr. Judd wanted to see one of his co-defendants.

I returned to my job in San Francisco. I arrived in San Francisco the morning of the 28th. I was employed at the Streets of Paris at that time. I had been employed at the Streets of Paris before we left for Salt Lake. I went right back to work on the 29th. Mr. Judd came to the place on April 3rd. I was working at the service bar. I had approximately eight stools in the front bar and I was working the whole front bar at the time he came in. The bartender was out eating. It was

(Testimony of Lester Dale Haliman.)

an off-hour. Mr. Judd was alone. I had a conversation with him. Mrs. Yaggie, the cashier, was present; she was about five or six feet away from us. I knew she could overhear what was said. We discussed it after Mr. Judd left. He asked about the Grand Jury meeting. He asked me when it would come up and I said the 16th; I think he asked me if I would be there and we discussed the business of the serial numbers and Bill's whereabouts and this El Cortez business. I know that the El Cortez was robbed, because my wife and I and Mr. Beatty and his wife were there that evening, approximately one-half hour after it happened. I think the date was the 26th of March.

The Court: The witness may be excused.

Mr. McDonald: So that there will be no confusion in the record, Mr. Colvin and I thought it would be well that we stipulate that Government's Exhibit No. 1 and Government's Exhibit No. 2 in evidence bears the certification of the clerk of the United States District Court for the District of Nevada, [28] at Carson City, and that the certification was made on June 2, 1945, by Amos P. Dickey, the clerk of the court, by J. P. Todrin, Deputy.

Mr. Colvin: So stipulated.



**BONITA YAGGIE,**

called as a witness for the Government, testified in substance as follows:

The Clerk: Will you state your name to the Court and jury?

A. Mrs. Bonita Yaggie.

**Direct Examination**

By Mr. Colvin:

My name is Mrs. Bonita Yaggie. On April 3, 1945, I was employed at the Streets of Paris. I was working on that date. I know the defendant Clifford Judd when I see him. He is sitting right over there (The witness identifies the defendant Judd). I saw him on April 3rd. I saw him at the Streets of Paris. My position there was cashier behind the bar. Mr. Haliman was working there. He was present when I saw Mr. Judd. They had a conversation. I was present during that conversation. Mr. Judd asked where Bill was; Mr. Haliman said he did not know. Judd insisted that he should know and Mr. Haliman had better tell him. Mr. Haliman said he did not know and would not tell him if he did know. He said if Mr. Haliman did not tell him where Bill was, he would have the bond raised. He said he would have him picked up on the El Cortez robbery. Haliman said he could not have him picked up on the El Cortez robbery because he had not been there and he could prove that he was elsewhere. Judd said Dale had removed the serial numbers from the cases, and Dale



(Testimony of Bonita Yaggie.)

said he hadn't anything to do with that and he hadn't any reason for doing so. Judd said he was still going to do it and admitted he did it himself. He said that he was going to say that Dale and Bill must have pulled up by the side of the road [29] some place and removed the serial numbers, and Dale said, "You did it yourself. We had no reason to." Judd said, "Yes, I know, but I am not going to take the rap on it." Judd said that if Haliman testified against him, he would draw him into it, too. That he would draw him into the case. That is all that I can remember.

I did not hear any conversation about the Grand Jury in Reno. There might have been something, but I did not hear it. All I heard was about finding Bill and where he was. No, there was no further conversation after he made the remark about the serial numbers and if Haliman testified against him, he would draw him into the case. He got up and left.

I saw him after April 3rd. He was down at the Streets of Paris but he did not come to the bar where I was working. Haliman was not working there at that time. Judd was standing at the end of the bar and glanced down and I saw him but when I looked down again, he was gone. That was late in the evening. The next time I saw Mr. Judd was in court today. I did not see the defendant Sheley at any time.

Mr. Colvin: I have no further questions.

Mr. McDonald: If your Honor please, I ask that

(Testimony of Bonita Yaggie.)

this conversation be stricken from the record, and that all of the testimony of this witness be stricken from the record as incompetent, irrelevant and immaterial. It has nothing to do with the date of April 3 (April 19) and there is no evidence that there was any threat or intimidation of this man as a witness. I can see no purpose in this conversation from the evidence in this case, and I ask it be stricken.

The Court: The motion will be denied. You may have an exception.

### EXCEPTION No. 5

#### Cross-Examination

By Mr. McDonald:

It is not unusual for people to come into the Streets of Paris. It opens at 4 and closes at 2. People come in there during those hours. It is not unusual that Mr. Judd would come into the Streets of Paris. I know Mr. Haliman as Haliman, not Halima. He had a conversation with Mr. Judd looking for Mr. Beatty. He had not told me he was under indictment in Nevada. He had not told me that there was a complaint filed against him. I did not know why Mr. Judd was looking for Mr. Beatty. I knew nothing about the trouble Mr. Haliman was in. I paid attention to the conversation. There were three people at the bar—Mr. Haliman, myself and Mr. Judd and it was quiet and naturally I was going to listen, with nothing else to do. I had nothing else to do. It was between 5 and 5:30.

(Testimony of Bonita Yaggie.)

I have known Mr. Haliman for four or five months, maybe longer. He was an employee of the Streets of Paris. I was employed by the Streets of Paris. I met him in connection with my employment. I never saw Mr. Judd before. I would say he was talking in a normal tone of voice. He was a little closer to me than the reporter. I do not know whether Mr. Judd has ever seen me before or not. I have never seen him. They did not say what Mr. Haliman was going to testify to. There was some discussion about serial numbers.

The Court: We will take the noon recess at this time.

Ladies and gentlemen of the jury, please bear in mind the admonition the court has heretofore given you.

(A recess was then taken until two o'clock p.m.) [31]

Afternoon Session,

June 7, 1945, 2:00 P. M.

The Court: The jurors are all present. You may proceed.

BONITA YAGGIE

Cross-Examination (Resumed)

This discussion took place on the evening of April 3rd at the Streets of Paris. I worked at the Streets of Paris over a year. I have known Mr. Haliman for four or five months. I am not at

(Testimony of Bonita Yaggie.)

the Streets of Paris now. I left there about a month ago. I do not remember for sure when Mr. Haliman left there. I left there before he left.

I discussed my testimony with my husband, and Mr. Haliman and I have discussed it after Mr. Judd left. Not the testimony, but what Judd was talking about. I discussed it with Mr. Haliman. I discussed it with Mr. Colvin. I did not discuss it with Mr. Whitfield. I discussed this occurrence right after Mr. Judd left the bar that night.

#### Redirect Examination

By Mr. Colvin:

Mr. Colvin told me to tell the truth.

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#### MARIE V. COLE,

called as a witness on behalf of the Government,  
testified in substance as follows:

The Clerk: Will you state your name to the court and jury?

A. Mrs. Marie V. Cole.

#### Direct Examination

By Mr. Colvin:

I am Mr. Haliman's mother. On April 19th of this year, I was at the Below Decks. That is the place where my son is employed. On that evening, I saw both of the defendants. It was [32]



(Testimony of Marie V. Cole.)

sometime around nine o'clock, probably a little after. I was sitting on a stool in front of the service bar, talking to my son, when I first saw them. I first saw Clifford Judd (pointing to the defendant Judd). He came up and stood right beside me, his arm touching mine on the right. I did not see Mr. Sheley at this time. I first saw Mr. Sheley after Cliff Judd left.

There was a conversation between my son and Mr. Judd in my presence. It occurred shortly after I first saw Mr. Judd. There was no one else present besides Mr. Judd, Dale Haliman and myself. The conversation related to this case in Reno, Nevada. Mr. Judd came up to the bar and stood on my right side and said to my son, "I hear you are exonerated." My son said, "Yes, so I am." He then said, this Mr. Sheley, that he had been exonerated also. He asked my son how he knew he was exonerated, and my son said, "Well, I have a letter, too." He questioned him as to what was in the letter and my son mentioned the fact that he had been exonerated and his bond liberated. He asked him if he had seen Bill and my son said no. I don't remember just what he said then. There was so much conversation. He referred to the letter again and asked him what was in the letter. My son told him what it was. I don't know—I don't remember the words. There was a little talk back and forth. He then said to my son, "You are a God damn liar," and he jumped up and threw his body against the bar rail and smashed my son



(Testimony of Marie V. Cole.)

on the head with his fist. I grabbed him and pulled him back. I said, "How dare you come in and strike my son?" He said, "Who the hell are you?" I said, "I happen to be Dale's mother." He said, "I don't give a damn if you are." He did not hit me. He doubled up his fist. Judd then left the bar.

Then, Frank Sheley came in and stood on my left, behind me. I was directly in front of the service bar. He started on [33] the same line of questioning of my son. He wanted to find out where Bill was, and said that he had seen a statement which my son and Bill gave that said the liquor was purchased from Frank Sheley and Cliff Judd by Bill Beatty, and he had seen the statement signed by both my son and Bill Beatty. My son said he had not signed such a statement, but he insisted that he had. He asked my son if he knew where Bill was and if he was going to testify in this case.

The Court: Just listen and take it easy now. When this man Sheley asked your son whether he was going to be a witness and your son said he didn't know, was there anything further that Mr. Sheley said?

A. He asked where Bill was, and my son said that he didn't know. He hadn't seen him or heard from him. So he turned around and asked me, "Who are you?" and I said, "I am Dale's mother." He commenced talking to me and asked me where Bill was and I said I didn't know. He says, "If you

(Testimony of Marie V. Cole.)

know and you won't talk, there will be plenty of trouble and plenty of fights." He said, "We are not through with you yet."

Mr. Colvin: Did he say that to you or to Dale?

A. To me.

Mr. McDonald: I will ask that go out as incompetent, irrelevant and immaterial. The defendant is not accused of threatening this witness.

The Court: I will overrule the objection. Exception may be noted.

Mr. McDonald: Exception.

## EXCEPTION No. 6

### Direct Examination (Continuing)

I asked who he was and he said, "My name is Frank Sheley." He said, "You know where Bill is." I said, "No, I don't." He said, "Yes, you do." I said, "No, I don't, and neither does Dale know." I said, "Why come in and jump all over Dale. He didn't have anything to do with it." He said, "I am plenty mad. This is costing me \$500.00, and another thing, Judd didn't get the \$800 out of the whiskey." I said, "Why don't you ask Mr. Boyle? That is the proper thing to do." He says, "I have and he wont tell us." He said, "Do you know anything about lawyers?" And I said, "Not much." He said, "All lawyers are damn liars." I told him that I thought the proper thing to do would be to contact Mr. Boyle. He said they wanted to see Bill before the trial and shut him up before the trial

(Testimony of Marie V. Cole.)

so he wouldn't talk too much. He said, "If you want to save your son, you better get in touch with Cliff Judd and let him know where Bill is, or we will get both of you."

Dale was busy at the service bar when this was said. Dale was across the bar. It is a narrow bar. That was the substance of the conversation. He insisted upon knowing where Bill was so that they could shut him up. He stated, "Cliff Judd will kill any body who testifies against him. I would myself." That was the substance of the conversation. Then Frank Sheley walked out. Judd was not there during this conversation. Judd went out ahead.

### Cross-Examination

By Mr. McDonald:

Both of these men were looking for a man by the name of Bill Beatty. One part of the conversation was about Beatty and the other was that they did not want Dale to testify. Frank Sheley was trying to get in touch with this man Bill Beatty. They were talking about the whereabouts of Bill. They asked me [35] if I knew where Beatty was. I suggested they get in touch with Mr. Boyle. Mr. Boyle is an attorney in Reno, Nevada. I had never seen Mr. Judd before. I had never seen Mr. Sheley. I knew it was Cliff Judd when he said "Hello, Dale" and my son said "Hello, Cliff." I had been sitting there for just a little while—not very long—maybe ten or fifteen minutes; I wouldn't know.

(Testimony of Marie V. Cole.)

I was talking with my son. I don't drink; I never drink. I was talking with my son. I discussed my testimony with Mr. Colvin. My son and I have talked the matter over on a number of occasions. He wasn't knocked off his feet.

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LESTER DALE HALIMAN,

called for further cross-examination, testified as follows:

I testified this morning that my wife was staying with me at the El Cortez Hotel. My wife's first name is June. It wasn't Barbara. I don't recall a Barbara. I don't remember whether I told Mr. Judd I was going back to my job but that is what I planned to do. He came to the Streets of Paris when I was there. I don't remember whether I told him in my conversation of March 27th whether I was going to the Streets of Paris or not, but I did tell the bail bondsman. He could have gotten the information from him. It is not true that he told me that a girl by the name of Barbara, whom I knew in Reno, had been picked up in connection with the El Cortez robbery and that the girl had been frequently seen in Reno with me. The only girl who was ever seen in Reno with me was my wife. I believe the first evening that we were in Reno we had dinner with Bill and a woman, a Mrs. Someone—I don't remember her name. Bill seemed to know her fairly well. Other than that,



(Testimony of Lester Dale Haliman.)

no. She was not Bill's wife. I don't know what her name was. There was nothing said about a woman by the name of Barbara being picked up in connection with the robbery of the El Cortez Hotel and [36] that I might be implicated in it.

I knew that there was liquor in the car that I was riding in to Salt Lake. I saw the liquor loaded in the car. I had no part in the purchase of the liquor. I have a wrist watch. I did not offer the wrist watch as security to Mr. Judd for the purchase of this liquor. I have a wrist watch; it is insured for \$250.00. It was a present from my wife. I wouldn't be apt to give it as security.

#### Further Redirect Examination

By Mr. Colvin:

When my wife left Reno, she went home to her mother. I was to meet her there.

#### Further Recross-Examination

By Mr. McDonald:

My wife left Reno the day following our arrival there. I don't remember the actual date we left San Francisco, but if I look at a calendar, I might be able to tell you. I believe it was some time around the 16th of March. I worked Monday night at the Streets of Paris. We were to leave, I believe, the following Wednesday on the plane. The reservation was cancelled because of bad flying weather. We left the following morning. That would be



(Testimony of Lester Dale Haliman.)

Tuesday. We got in that night. She would have left Friday night, and I believe I left Sunday morning. We were arrested Monday. We went to Reno by train. We bought a ticket to Reno because we intended to stop there a day or two. I had worked there before and had a few friends there. It wasn't the purpose of my trip to see Mr. Beatty. I wired him that I was coming. I have other friends in Reno. I did not wire any of my other friends. I wired him because I had talked with him a week or two before. I do not know how long he had been in Reno before I got there. I know that he was employed at Alturas. I don't know that he quit his job in Alturas for the purpose of coming to Reno to purchase a bar. I did know [37] that he was in Reno. I wired him at Reno. We were to have dinner the evening I got in. Up to that time, I had never seen Mr. Judd in my life.

Mr. Colvin: No further questions. The Government has no further witnesses or other evidence to present at this time and rests its case.

Government rests.

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### CLIFFORD J. JUDD,

called in his own behalf, testified in substance as follows:

By Mr. McDonald:

If your Honor please, Mr. Judd is very hard of hearing and, if I may, might I stand closer?

(Testimony of Clifford J. Judd.)

Direct Examination

My name is Clifford J. Judd. I live in Reno at 529 Mill Street. I am manager of the Depot Bar. I have been so engaged since last August. I also have been in the Merchant Marine. I know the witness that testified here this morning, Lester Dale Haliman, or Lester Dale Halima. I knew him under the name of Haliman. I met him in Reno through a boy who was working for us or had been working for us. I don't recall if he was working on that particular day or not. The boy's name is Bill Beatty. This Bill Beatty is William Nelson Beatty, Jr., that has been referred to in the indictment that has been introduced as evidence in this case. Mr. Beatty introduced me to Mr. Haliman. His purpose in introducing me was that they had been friends for quite a while and they were going to try and buy a business in Reno if they could get one. That was when I first met him. They were interested in the saloon business. They wanted me to go out to a place called "The Cedars" to look at it. They said they could get it for a small down payment. It is out on South Virginia Street on the road to Carson City. I did not go out to look at it. Later he mentioned purchasing a place at Elko, Nevada. [38] He told me he was going to purchase a bar in Elko. He said that they had bought the bar there but they were short of merchandise. By merchandise, I mean whiskey; that is all they handled. Mr. Beatty wanted to borrow some whiskey from

(Testimony of Clifford J. Judd.)

me with the understanding that if he couldn't return whiskey of this certain type, he would pay me for the whiskey. I loaned him certain whiskey.

I met Mr. Haliman a few days before. He was with Bill at the time when they helped carry the whiskey out of the basement of my place. There was a discussion about security for this whiskey. He said he had not been working for quite a while but that Bill had \$4500 and it would take all the money they had to pay down on the place, but he took off a square wrist watch that had a large diamond on each corner and said that if I wanted to hold it as security, I could. I told him that Bill's word was good enough; that he had worked for us for several months at both places. When I say "both places," I mean another bar that we own in Alturas.

Afterwards, Mr. Haliman and Mr. Beatty were arrested in Elko, Nevada. I was also arrested. I was charged with certain violations of the Internal Revenue law and conspiracy. I don't recall the date I was arrested. I recall the incident. I was arrested shortly after they were—within a couple of days. I recall meeting Mr. Haliman after he was released from jail in Elko. I met him at the Waldorf Cafe in Reno. I had a conversation with him at that time. He asked me if I thought it would be very serious and I told him at that time I had found out I had been arrested and my attorney told me as far as I was concerned it didn't mean a great deal. That was our way of transacting

(Testimony of Clifford J. Judd.)

business. We did it prior to that and each and every time since. It is routine business in Nevada. Loaning or selling whiskey to other bars. I did not tell him how to testify. [39]

He spoke about some pistols that they found tied up in the window curtains. These pistols were found shortly after their arrest. According to Haliman, they were found in the room occupied by himself and Beatty at Elko. He said that he had done some time in San Quentin and that if you have done a penitentiary sentence in another state, they would call it a felony against him, and that Beatty was willing to say that he bought, that he owned, both pistols. Beatty was willing to testify he bought both pistols, in order to save Haliman who had been previously convicted of a felony, from being arrested for a felony in the State of Nevada. He asked me to testify to the fact that Beatty had two pistols. I told him Beatty went and tried to buy a pistol from a man that was working in the Bonanza Club, but I didn't know where the second pistol was. He had asked me if he could buy a pistol from me and I told him I didn't have a pistol in the establishment and wouldn't be interested in one. We don't have them.

He said that he would call me again that evening if Bill came in. I was anxious to see Bill and if he came in, he would let me know. He would call me just before the train departed. It is just across the street from my place of business. He called me



(Testimony of Clifford J. Judd.)

there. I went across the street to see him. We had a conversation at that time. There was nothing said about his testimony in the case in Nevada. It reverted back to the pistol that he had purchased from a man in San Francisco, who he said was a friend of his and he could go back and have the bill of sale at the time when they found the pistol made out to him. He said if he went back to this man, he would have him say that the pistol was sold to Beatty and that the bill of sale was made out in Dale's name and that the reason was that Beatty only [40] had \$100 and that the cost of the pistol was \$45, and the man made it out to Dale, but Dale just paid for it.

He told me that if I wanted to reach him, that I could reach him at the Streets of Paris. If there was anything he could do to get me out of trouble he would, but they haven't worried me then or since, other than the routine business which might happen. He then got on the train and went to San Francisco.

I came to San Francisco afterwards. My purpose in coming to San Francisco was to purchase or buy an interest in the Vanderbilt Bar that is located on Mason Street. I was making arrangements for the purchase of the bar. I saw Mr. Haliman a few days after he left Reno. I don't remember the date. I saw him at the Streets of Paris. I went to the bar about 5:30 in the evening. He was tending bar. There was a girl there. It was the young lady who testified here this morning. She was sitting down



(Testimony of Clifford J. Judd.)

in front of the cash register. I bought a drink. I bought one for Mr. Haliman and I think I asked her to have one. The three of us had a drink. He took the money and handed it to her, the cashier, who charges you for the drink, and the bartender gives you back the change. I commented on this.

There was nothing said about the case in Nevada. We had a discussion and he called me away from the cashier to the other end of the bar, down a few feet, where the cashier couldn't be listening I imagine. There was nothing said about the serial numbers of any liquor. I don't recall whether I asked him about where Mr. Beatty was. I didn't threaten him about testifying against me. I didn't know he was going to testify against me. I thought we were all charged with the same offense, all four of us—I thought that we were all defendants in the same case. I don't recall any discussion with him about [41] the case. We were very friendly at the time. I never heard serial numbers mentioned until now. It was never discussed at all. Nothing more was said. I didn't think that the case was very serious.

I saw him on an occasion after I saw him at the Streets of Paris. I saw him up on Market Street. I don't know the name of the place. I know the location. It is across from and down a ways from the Fox Theater. I don't know the address. It has a bar down in the basement. I went in the bar on that occasion. I didn't know Mr. Haliman was tending bar there at that time. When I went down there, I ran right into him. He was tending bar at that

(Testimony of Clifford J. Judd.)

time. There were people lined up on all sides of it. I don't know whether it was the service bar. I just walked up and started talking. I said "Hello" and he said "Hello" and something else. I didn't hear what he said. He leaned over the bar to ask me a question and I leaned over the bar to meet him, and I laid my weight on my left arm and there was music and I couldn't hear what he was saying. I didn't hear what he was saying. I leaned over the bar. He put up his left hand, just went up easily, and I put my right hand up and backed away. I don't remember if either one touched. I didn't strike him. I had no intention of striking him. When I put my arm up, I did it as an act. I didn't think and I didn't know that he had anything to be angry about. He kept on talking louder, but I couldn't hear what his words were, so I turned around and walked to the top of the stairs.

When I started down to the place, Mr. Sheley was with me. He came to the top of the stairs and there was a soldier or Navy boy from Reno. It was a soldier and he stopped and had a conversation with him and I just walked down.

On that occasion, I did not ask Mr. Haliman where Beatty was. I just got to say "hello" to him. I just said "hello" and [42] this trouble over the bar ended it. I didn't ask him if he was exonerated. I didn't know it at that time. I didn't tell him Frank Sheley had been exonerated. I didn't know it. Frank Sheley had been charged the same as I. He was charged the same as I and

(Testimony of Clifford J. Judd.)

as Haliman and Beatty. I didn't know that any of us had been exonerated. I didn't know whether or not the Grand Jury had met. I didn't know whether or not Mr. Haliman had testified before the Grand Jury. I thought we were all charged equally. I didn't know he had testified against me in Nevada. I had not been back to Nevada since I met him in the Streets of Paris. My attorney told me he would notify me when it was to come up. My attorney had not notified me at the time of this discussion. After I put my hand up, there was no further discussion between Mr. Haliman and myself. There was no conversation between us. I heard him say "hello", that was all. I did not hear the rest of the conversation.

Mr. McDonald: I think that it all.

The Court: We will take the afternoon recess. Ladies and gentlemen of the jury, please bear in mind the admonition of the court.

(Recess)

The Court: The jurors are all present. You may proceed.

Cross-Examination

By Mr. Colvin:

I do not remember the first date I was in San Francisco this year. I have been down a number of times. I remember seeing Mr. Haliman about March 27th. I do not recall the exact date. The conversation took place at the depot in Reno. I came to San Francisco within a week after that

(Testimony of Clifford J. Judd.)

conversation. I remember a conversation with Mr. Haliman at which Mrs. Yaggie was present. I don't recall how long I had been in San Francisco [43] before that. I think I came down the week following that that he left and I went in to the Streets of Paris shortly after I came down. I do not recall the exact date. I don't remember whether or not I went in the day I came to San Francisco. I was buying a place here and there was quite a bit of money being invested and I made numerous trips. I don't recall the exact dates that I was here.

I remember the conversation at which Mrs. Yaggie was present and I remember a conversation at the Below Decks. I do not recall whether I went back to Reno between those conversations. I went to the Streets of Paris shortly after I arrived. I don't remember the exact dates. It could have been four or five hours after I came to San Francisco. I may have asked him where Beatty was. I don't remember definitely asking him that question but I know that I should have asked that. A doctor had been calling our place repeatedly that his wife was dying. I do not recall if I asked that particular question at that meeting. I am not sure whether I asked that question at that meeting. The doctor had called a number of times saying that Beatty's wife was dying.

I went to the Streets of Paris early in the evening. I would not know the hour other than they just opened up. I would not know the exact hour—I didn't pay a great deal of attention. I don't



(Testimony of Clifford J. Judd.)

know anything about the indictment. I knew we had already been charged. I knew we had been arrested. We had appeared before the Commissioner and posted bond. I don't believe it was a hearing—it lasted just a minute. I don't know what that would be. I knew there was a case in Reno. I knew Beatty also had been arrested. I knew that Sheley also was arrested and I knew that Haliman had been arrested. I knew it all had to do with the same transaction.

When I went to the Streets of Paris, Haliman asked me [44] how serious I thought the case was going to be. I told him I did not think it would amount to a great deal. I don't recall what his answer was. We talked about the case to the amount that I just stated. I didn't ask him if he was going back to Reno; whether or not he would testify was never mentioned. I don't know whether Sheley was in Nevada or California at that particular time. I don't recall definitely asking where Beatty was on that particular trip.

I came to San Francisco to purchase the Vanderbilt Bar at that time and brought down a deposit on it. I brought down \$23,000. I want to retract that statement. I believe I brought down the greater part of \$23,000 and I had a check in my pocket. I don't recall the exact amount of the check. It was lost. I don't recall the exact amount of it. I brought \$18,000. I brought \$18,000 in cash and wrote a check for \$5,000 after I was here. I didn't buy the bar. I worked there for a few



(Testimony of Clifford J. Judd.)

days until they told me to take my name off the license. I had purchased the bar to the extent that my name was on the license. At the time I had the conversation at the Streets of Paris, I was making preparation to buy the bar. The date of the 19th doesn't mean anything to me. I don't recall the date I had the conversation at the Below Decks. I never really worked there. I just started to buy the place.

I was present at the Vanderbilt Bar the day of the conversation at the Below Decks. I had been in and out of it throughout the day. I don't recall what time I was there. I don't recall the exact hour I went to the Below Decks. It was in the evening. It was show-time in the evening. I didn't understand your question. I didn't go directly to the Below Decks. I left the Vanderbilt Bar and went to the Fox Theater. I turned around and came back to the Below Decks. I didn't see any picture at the Fox Theater. I did go to the Fox Theater. I went to the box [45] office. I didn't go into the theater. I then went over to the Below Decks. I wouldn't know the exact hour. It could have been about 9 o'clock—an hour or an hour and a half one way or the other. I don't recall that far back. I don't remember the movie that we were going to see. I had not been with Sheley all that day. I don't recall what time I met Sheley, probably in the evening. He comes in in the evening. I don't recall the first time I met him that day.

(Testimony of Clifford J. Judd.)

I haven't gotten one of his last five questions. It would make it a lot easier for yourself and me if you would come closer.

I don't remember the time or place that I met Mr. Sheley.

A doctor phoned our place of business about Beatty's wife. Our place of business was the Depot Bar, Reno, Nevada. I didn't know William Nelson Beatty, Jr. had entered a plea in the Reno case. I have never heard of a plea of *nolo contendere*. I didn't know he had been arraigned before the Court any differently than we had. I was not particularly looking for Mr. Beatty. If I had met him, I would have repeated the conversation that the doctor gave us. I don't recall asking for him at the Streets of Paris. I knew that Haliman and Beatty were good friends. I saw Haliman at the Streets of Paris and I knew the doctor was trying to reach Beatty. I don't recall whether I mentioned it to Haliman or not. It was a later time and it didn't seem so important to me. I had no way of knowing where he was and they said his wife was getting along fine. My wife is very friendly with them. I didn't say I asked for Beatty at the Streets of Paris.

Mr. Colvin: Q. Do you remember the conversation that happened at the Below Decks?

A. May I have the reporter read the question.

The Court: Do you read lips? [46]

A. If they keep their head up and not look

(Testimony of Clifford J. Judd.)

around I never have any trouble, but when they back up and get their heads around, I can't hear plainly.

Q. Can you watch the lips?

A. As much as possible.

The Court: Stand in front of him and ask the questions, Mr. Colvin:

Cross-Examination (Continuing)

By Mr. Colvin:

The first thing that I did at the Below Decks was to walk up to the bar. I had never been there before. It was the first time I had been there. When I went over to the bar, I saw Haliman. I walked directly to where Haliman was standing. This was the first time I had seen him since I saw him at the Streets of Paris. Sheley remained at the top of the stairs, as I went down. The first thing I said was "Hello" to him. I was standing right against the bar when I said it. I started the conversation by saying "Hello." He said "Hello" back. I have never heard what else he said. I never understood anything further in the entire conversation after he said "Hello"; that was all. I did not stay at the bar very long; just long enough to say "Hello," lean over the bar, turn around and go out. It would be a matter of seconds. I wouldn't recall the amount.

(Witness demonstrates how he leaned over the bar.)

(Testimony of Clifford J. Judd.)

My head was down. I was leaning towards him. His head was almost touching mine. I was directly across the bar from him. My left arm was across the bar. My head was forward. The music was playing and I couldn't hear what he was saying. I wanted to hear what he was saying. He kept his conversation going, his arm right in my face like that. It would have been his left arm. I was leaning over like this, my right arm back like this and walked out. I leaned over like this and put my right arm up like this. I brought my right arm forward in such [47] a manner that my wrist crossed my face. Then I walked out. I had no further conversation—not another word.

I did not see Mrs. Cole there. I saw her here this morning but it is dark in the place. I don't remember seeing her. I don't remember seeing her at any time. I walked out of the bar.

Sheley had left the top of the stairs and come down. I did not see him leave the top of the stairs, but as I walked up to the bar and turned around, he came in and went behind me on my left and was standing a few feet in front of the bar. I first saw him just as I left. He walked out in front of the bar and had a talk with Dale and I thought he would follow me out. He was a little to my left. I walked past him. I saw him as I walked out of the bar. I did not stop and talk to him. I walked straight up the stairs. I next saw Sheley outside the place.

Nobody told me that Haliman was working at the Below Decks bar. I didn't know he was work-



(Testimony of Clifford J. Judd.)

ing there. The last time I saw him he was at the Streets of Paris. It is a coincidence that I met him at the Below Decks.

I didn't put up the money for the bond at Reno. I knew the bondsman. I have Beatty's address—the phone. His wife talks to me over the telephone.

I am not known by any other name than Judd. I have a nickname. It is "The Galloper." I got it when I was playing football.

### Redirect Examination

By Mr. McDonald :

I played football at Coquille High School and Military School. I was a backfield man. I acquired this nickname when I was in high school.

I travel back and forth from Reno to San Francisco quite [48] frequently. Some time in April—I do not remember the exact date—I entered into a transaction to purchase the Vanderbilt Bar on Mason Street in this city. I came down to San Francisco for that purpose. I brought down \$18,000 in cash and I made out a check for \$5,000 here. That was put in escrow pending the transfer of the state liquor license to my name and Mr. Rogers. There was \$3,000 left over. I didn't explain to Mr. Colvin, from the bankroll that I deposited in the bank. The money was deposited in one of the banks in this city pending the transfer of the license. The transaction fell through because of this



(Testimony of Clifford J. Judd.)

particular trouble. After I was arrested on this charge, I was advised by the State Board of Equalization that I would not be granted a license and I withdrew the money from that transaction.

On the night of April 19th, I went to the Fox Theater. It was around 9 o'clock, an hour one way or the other. I had met Mr. Sheley that day. I don't remember the time I met him. He comes in our place, drops in and out, and we live in the same hotel. I don't remember whether I met him at the hotel or at the place of business. He drops in. I think he spends most of his time at the Vanderbilt Bar. He also lives at the same hotel—the Continental Hotel in San Francisco. I don't recall whether I met him at the Vanderbilt Bar or the Continental Hotel. I met him some time that evening. We went by taxi to the Fox Theater. We didn't see the show. There was a long line when you get to the theater. They sell you tickets and you go in and you have to wait and we didn't feel like waiting. We left there. We went looking for a cab and this place is cater-corner from the Fox Theater, so we walked over there. There were two cabs pulling up, letting some sailors off. I don't remember whether Sheley or myself suggested that we go into the Below Decks. It could have been Mr. Sheley—I wouldn't [49] say. The cab that we were going to take had another load, so we had to wait. I didn't know Haliman was working at the Below Decks at that particular time. I went down to the bar. I saw him at the service bar. I said

(Testimony of Clifford J. Judd.)

"Hello" or I first—I don't recall, and he started a conversation that I couldn't hear. It seemed like there was music in there. It was real dark, so I leaned over the bar to hear what he said. I didn't hear what he said. He put up his arm and I swung my arm around to defend myself. There were no blows struck on either side. He was hollering quite loudly and I picked up and left. I didn't hear what he said. I left and went upstairs. I didn't get the first word he said.

I didn't know that the Grand Jury had met in Nevada. Mr. Robinson, my attorney, was going to advise me of that and he had not called me. I had no occasion to threaten Mr. Haliman. I didn't speak to him except to say "Hello." On the occasion at the Streets of Paris on April 3rd, he seemed very friendly; both of us were very friendly. I had no hard feelings towards him at that time and there were no threats. On the night I saw him at the Waldorf and the Southern Pacific depot in Reno, there were no threats made against him.

### Recross-Examination

By Mr. Colvin:

After my conversation at the Below Decks, the next time I saw Mr. Haliman was yesterday morning. I didn't return to the Below Decks after my conversation of that evening. Mr. Haliman phoned me. I had a conversation with him. It was the very next day or the day following the Below Decks. I have never seen him since

(Testimony of Clifford J. Judd.)

that time. I never went around to talk to him about the case. The next morning they served a warrant upon me in the Reno case. I first heard of the indictment in Reno the [50] day after I had the argument with Dale.

### Further Redirect Examination

By Mr. McDonald:

Mr. Haliman called me. He said that I was in enough trouble in Reno and that they had exonerated—I think that is the word—that the trouble was not against him and that he could make it easy. I think he said Mr. Whitfield or Whitehead and the United Marshal, and he asked the United States Marshal to stand over him that night and make it look bad for me. He told me on the phone he had the Marshal and he was going to guard him back and forth to work. I asked him why to guard him back and forth to work, and he said if I would give him \$500, he would straighten out the alcohol tax trouble in Reno; otherwise, he would have the United States Marshal bodyguard him. He said that would make it look tough for me. That was a day or two after the trouble at the Below Decks.

I knew I was indicted in Reno after I called Mr. Robinson to tell him I had been arrested in this case in San Francisco. He told me that these people were mixed up with me and had testified against me that they were free. That was the first that I knew about it.

## FRANK EDWIN SHELEY,

one of the defendants called as a witness, testified in substance as follows:

The Clerk: Will you state your name to the Court and Jury?

A. Frank Edwin Sheley.

## Direct Examination

By Mr. McDonald:

I am Frank Edwin Sheley. I reside in Reno, Nevada, at No. 244 East Taylor Street. I have been in trouble in the State of Nevada. I was convicted in the State Court there for receiving [51] stolen property and the case is now on appeal to the Supreme Court of the State of Nevada.

I know the complaining witness in this case, Lester Dale Haliman. I first met him in Reno. I never had any business with him. I saw him on the night of April 19, 1945, at the Below Decks. That evening I had been to the theater. I had met Mr. Judd at about 8:30 or 9 o'clock at the Vanderbilt Bar. He came in and we went to the Fox Theater. I met him at the Vanderbilt Bar and we decided to go to the Fox Theater. There was quite a line so we didn't go in. We went across the street to get a taxicab. I suggested getting a drink; about that time a soldier came along and said he knew me from Reno. We talked a few minutes and then I went downstairs. I suggested getting a drink. I know the name of the bar. It was a bar and I felt thirsty and went in. Mr. Judd preceded me



(Testimony of Frank Edwin Sheley.)

downstairs. I stopped and talked to a soldier that I had known in Reno. I subsequently went into the bar. I saw Mr. Haliman there. I asked him why he had me arrested and he said he had not had me arrested. I said that that is strange that I am charged with conspiracy for he and a fellow named Beatty having some whiskey, and I told him I had not sold him any whiskey and wondered why he had had me arrested and he said he hadn't. I asked him where Beatty was and he told me he didn't know, to see his attorney. He said as far as me being arrested, I would be exonerated. I asked him how he knew that and he said that he had heard today that he and I were both exonerated. That is the first I knew about it. The Commission in Reno when I was arrested told me that Haliman and Beatty had testified that they bought whiskey from Cliff Judd and I. They didn't buy any whiskey from me. I had none to sell. I never threatened him in any manner. I didn't tell him that Mr. Judd would kill him if he testified against him. I didn't tell him that I would [52] kill him if he testified against me because he had just told me that I had been exonerated.

I had no conversation with the lady who testified here today. I never saw her until today. I don't know her. I didn't see her in that place. There were quite a few people there. She didn't talk to me. I left, met Mr. Judd upstairs and we got into a cab and went back to the hotel. I did not speak to the mother of Mr. Haliman at the



(Testimony of Frank Edwin Sheley.)

Below Decks bar. I didn't ask her where Bill Beatty was. I didn't know where he was at that time. I didn't care where he was at that time.

Cross-Examination

By Mr. Colvin:

The Commissioner did not tell me that Beatty and Judd were going to testify when the case came up. He told me that Beatty and Haliman had been arrested in Elko with some whiskey in their possession and claimed that they bought it from Cliff Judd and I. That was the charge.

I asked Haliman where Beatty was and he told me to see his attorney. That is all he said. I have asked Judd where Beatty was. I don't remember when it was—before I went to the Below Decks. He said he didn't know where he was. I didn't go to the Below Decks to find out where Beatty was. I went down to get a drink. I had no idea Haliman was working there. It was a complete surprise when I saw him there. I didn't see Mrs. Cole there. No, I didn't see her; there were quite a few people there. I didn't pay any attention to whether or not there were any women at the bar. I saw him and started talking with him. I wasn't looking for any women.

I saw Judd leave before I started to talk to Haliman. I didn't say a word to him when he went out. I walked over. I don't remember whether I spoke or not, and asked him why he had me arrested when I saw it was him there. He said he didn't. [53] I was referring to the case in Reno. He said

(Testimony of Frank Edwin Sheley.)

he didn't have me arrested. I said that when I was arrested, I was informed by the Commissioner that he and Beatty had been caught with some whiskey and they claimed that they bought it from me. I was wondering why I was arrested. I don't recall the rest of the conversation.

I never called Mr. Judd "The Galloper." I always call him Cliff. I never saw the complaint. When I went before the Commissioner, I posted bail. He asked me if I pleaded guilty or not guilty and I posted bail.

I didn't say that I wouldn't blame Cliff for killing anybody that would testify against him. I don't know how long I was there; it was a very short while. I saw he was there and he told me he didn't have me arrested, and Judd had left, so I left. I didn't even have a drink there. I didn't see Judd talking to him. I was at the top of the stairs talking to a soldier when Judd went down. I didn't see him walk down. I went over to the bar to talk to Haliman without stopping. I didn't tell him that there would be plenty more fights before this case came to trial. I didn't tell him this was only the beginning. I had no conversation with any woman at the bar. If Mrs. Cole was there, I didn't see her. I was not interested. We never went back to the Below Decks after that time. I never had any conversation with Haliman after that time. I never saw him. I never found out where Beatty was. I did not make any more inquiries. I was not interested. I had been exonerated.

## CLIFFORD JUDD,

recalled for further Direct Examination, testified as follows:

Mr. McDonald:

I do not recall seeing this lady, Mrs. Cole, at the Below Decks. [54]

Mr. McDonald: That is all.

Mr. Colvin: No further questions.

Mr. McDonald: That is the defendants' case.

The Court: Is there any rebuttal?

Mr. Colvin: No rebuttal.

The Court: After the usual admonition, then adjourned until Friday morning, June 8, 1945, at 10 o'clock A. M.

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Friday, June 8, 1945,  
10:00 O'clock A. M.

The Court: Stipulated the jurors are all present?

Mr. Colvin: For the Government.

Mr. McDonald: Yes, your Honor.

The Court: Are the defendants present in the courtroom?

Mr. McDonald: Yes, your Honor.

The Court: You may proceed with the argument this morning.

(Thereupon the opening argument was made by Mr. Colvin, followed by Mr. McDonald's reply argument, and Mr. Colvin's closing argument.)

## CHARGE TO THE JURY

The Court (Orally): Ladies and gentlemen of the jury, I will ask you to give your attention to the court for a few minutes. You have listened to the arguments and heard the evidence in this case, and your labors are about to begin.

There is a difference between the function or province that the jury has and the province that the court has. It is the exclusive function of the jury to judge the facts of the case. The court can't interfere in that regard. It is the court's duty to instruct the jury as to the law that they should apply, and the jury must take that law from the court. They cannot disagree with that. We are both a part of the judicial process, [55] but we have two distinct functions, and I cannot infringe on yours, and you cannot invade my province. So, it is, therefore, your duty to take the law as the court gives it to you and to apply it to the facts.

Now, during the course of the trial the court has occasionally questioned witnesses and made comments in connection with rulings that the court has made on objection to evidence. You are not to conclude from any of these facts or circumstances that the court was intending to express any opinion as to the facts of the case or what your verdict should be. I only say those things and I only ask the questions or make the rulings in pursuance of the court's province. Indeed, it is the duty of the court to supervise the trial of the case and expedite the trial. So you are not to conclude from



anything the court said during the case as to any opinion the court may have as to the guilt or innocence of the defendants. That is your duty and you are to decide that.

There are some general rules that apply to all criminal cases. I wish to advise you of them now.

In the first place, you have to exclude any sympathy or any prejudice from your minds. You are not to concern yourselves in the matter of the punishment of the defendants, or either of them, in the event of a verdict of guilty. The matter of the punishment of the defendants or either of them in the event of a verdict of guilty is for the court to determine alone.

I state to you, it is your province to decide the factual issue of the case, which is the guilt or innocence of the defendants. You must bear in mind, as I told you at the time you were impaneled as jurors, that because the United States Attorney has filed an information or complaint against the defendants, that there is no presumption of guilt that flows [56] from that. On the contrary, at all stages of the proceedings the defendants, and each of them, are presumed to be innocent. This presumption remains until and unless the evidence introduced for or on behalf of the Government proves the guilt of the defendants, or either of them, to a moral certainty and beyond all reasonable doubt.

Now, of course, you should know what is meant by the term "a reasonable doubt." The best defi-

inition that I think I can give you as to the meaning of reasonable doubt is this: A reasonable doubt is a doubt resting upon the judgment and reason of him who conscientiously entertains it from the evidence in the case. It is a doubt based upon reason. By such a doubt is not meant every possible or fanciful conjecture that may be suggested or imagined, but a fair doubt based upon reason and common sense, and arising out of the evidence presented. It is always difficult to prove facts to an absolutely and complete certainty. Therefore, as I have said, a reasonable doubt is not a mere possible or imaginary doubt, or a bare conjecture. Whether or not you believe the witnesses who have testified in this case and the weight to be attached to their testimony are matters solely within your judgment.

We start out with the presumption that a witness is presumed to speak the truth. However, that presumption may be repelled by the manner in which he or she testifies, by the character of his or her testimony, by contradictory evidence, by his or her motives, or by evidence as to his or her character and/or reputation as to truth, honesty and integrity. Based upon the credibility of the various witnesses you may accept the whole or any part of their testimony, or discard or reject the whole or any part thereof. If it appears to you and if it has been shown that a witness has testified falsely on any material matter you should distrust his or her testimony in any other particulars. [57]

In that event, you are free to reject all of the witness' testimony.

You have, in a way, an overall duty to scrutinize the testimony given by all of the witnesses, and as guides to you in doing that you may consider the following: The first set of circumstances under which the witness testifies is his or her demeanor or manner on the stand; next, his or her intelligence; also, the connection or relationship which he or she bears to the Government or to the defendants, or either of them; also, the manner in which he or she might be affected by the verdict; and to the extent to which he or she is contradicted or corroborated by other witnesses or evidence, if at all. Finally, you may consider any other matter which reasonably sheds light on the witness. You should disregard entirely any testimony stricken out by the court, or any testimony to which an objection has been sustained.

It is also your duty to receive with caution oral admissions testified to by witnesses, particularly oral admissions of a defendant.

In the course of their arguments, the attorneys in this case have commented upon and argued upon the facts. If you find any variance between facts testified to by the witnesses and what has been stated to you by counsel to be the facts, to the extent of such variance you must consider only the facts testified to by the witnesses. You may find discrepancies or inconsistencies are not material and do not affect the true issue of this case, and

if they do not reasonably bear upon the guilt or innocence of the defendants, or either of them, do not waste your time in considering them.

In every crime there must be a joint union or joint operation of act and intent. For you to convict the defendants or either of them in this case, both elements must be proved to a moral certainty and beyond all reasonable doubt. Such intent is [58] merely the purpose or willingness to commit an act. It does not require a knowledge that such an act is a violation of the law. A person must be presumed to intend to do that which he voluntarily and willfully does in fact do, and must also be presumed to intend all the natural and probable and usual consequences of his or her own act.

One of the attorneys in his argument stated to you that a judge had said that jurors should not check their intelligence when they go into the courtroom. I agree with that and, perhaps, can add that you should use your good sense, ladies and gentlemen of the jury, just as you would in acting upon the most vital and important matters pertaining to your own affairs. You should resolve the facts of the case according to your deliberate and cautious judgment in the light of your own knowledge, and in the light of the natural tendencies and propensities of human beings.

You have been instructed that the defendants, and either of them, are entitled to any reasonable doubt you have in your mind. At the same time, if you have no reasonable doubt concerning the



guilt of the defendants, or either of them, the Government is entitled to a verdict.

If a defendant in this case has testified on his own behalf, that being so you will determine his credibility according to the same standards applied to any other witnesses. You will not hold it against him that he testified upon his own behalf. At the same time, you will treat his testimony just the same as if he were an ordinary witness in the case, according to the standards of credibility which I have already given you. You may consider in connection with the testimony of the defendant, the interest that he has in the case; his hopes and his fears, and what he has to gain or lose as a result of your verdict.

Now, ladies and gentlemen of the jury, the information in [59] this case, as I already advised you at the time of your impanelment, charges the two defendants, Clifford J. Judd and Frank Edwin Sheley, on or about the 19th day of April, 1945, here in San Francisco, with knowingly, willfully and unlawfully, by threats and by force, endeavoring to influence, intimidate and impede one Lester Dale Haliman, who was a witness in the United States District Court for the District of Nevada in a case pending in said district court by the United States of America against Clifford J. Judd and one William N. Beatty.

The defendants entered pleas of not guilty to that charge, thus placing in issue all of the material allegations of that charge in the information.

What you are to consider in this case is whether or not the two defendants, Judd and Sheley, did knowingly, willfully, and unlawfully, by threats and by force, endeavor to influence, intimidate and impede Lester Dale Haliman.

The charge made in this information cites its authority in a statute of the United States, section 241 of Title 18 of the United States Code, substantially, as to its pertinent parts, provides:

“Whoever by threats or force shall endeavor to influence, intimidate, or impede any witness in any court of the United States shall be punished” as provided in the statute.

A witness in the case, of course, is one who knows or who is supposed to know material facts, and who is expected to testify to them in court, or to be called upon to testify, although he may not have been actually and formally subpoenaed in the case.

This section of the law that I have given you the pertinent parts of was designed to protect the administration of justice in the Federal courts and those participating therein. [60] Acts of violence, though criminal under State laws, are offenses against the United States only and when and because they thus affect the administration of justice of the United States. It is necessary to Federal jurisdiction in this case to prove that there was a proceeding in the courts of the United States; in this case, in the District Court of Nevada; that

the man named Lester Dale Haliman was a witness therein; that the defendants, and each of them, or either of them, had knowledge of both those circumstances, namely, that there was a case pending in the District Court of Nevada, and that the man named, Haliman, was a witness therein, and that they intended by the alleged threats or the force used to either punish Haliman on past testimony given by him in the case, or to prevent him from testifying further in the case.

It is not necessary that the Government prove that the knowledge of each defendant that the person intimidated was a witness in the Federal court to be an absolutely or a direct knowledge that the person intimidated had testified or would testify. It is sufficient that the Government prove that each defendant had such knowledge, or a reasonably founded belief thereof. Of course, the Government must prove that the person intimidated was in fact a witness in a Federal case.

Mere conjectures or suspicions are not sufficient upon which to base a finding of guilty in this case or in any criminal case. Suspicious circumstances are not in themselves sufficient to convict the defendant, but proof must be, as stated to you, to a moral certainty and beyond all reasonable doubt.

To make it quite clear as to what the burden of the Government is in the prosecution under this particular statute, I will restate it to you in a little different form. It is the burden of the

Government in this case to prove to your satisfaction, [61] to a moral certainty and beyond all reasonable doubt, that there was a proceeding pending in the United States District Court in and for the State of Nevada, and that Haliman was a witness in such action, and that the defendants had knowledge of both the pendency of the action in the District Court of Nevada, and that Haliman was a witness in said action, that they intended to punish him for past testimony given by him in that proceeding in Nevada, or that they intended to prevent him from testifying in the future.

If you are satisfied beyond all reasonable doubt and to a moral certainty that the facts substantially are as I have just said, and were so presented, you may find the defendants, or either of them, guilty.

If you are not satisfied beyond all reasonable doubt and to a moral certainty, then you may find the defendants, or either of them, not guilty.

I have used the expression, "the defendants or either of them." In all events, I have instructed you as to the law of the case. I now instruct you that you may find in this case according to the evidence both of the defendants guilty, both of the defendants not guilty, or you may find one of the defendants guilty and the other defendant not guilty. It is your exclusive province to determine that issue from the evidence that has been presented.



Now, ladies and gentlemen of the jury, I want to say to you in concluding the instructions, that if you can conscientiously do so, you are expected to agree upon a verdict. You should freely consult with one another in the jury room. If any one of you should be convinced your view of the case is erroneous, do not be stubborn, and do not hastily abandon your own view under such circumstances. On the other hand, it is entirely proper to adhere to your own view if after a full exchange of [62] ideas you still believe you are right.

I wish to advise you that if it becomes necessary to communicate with the court during your deliberations, or upon your return to court, upon any matter connected with the trial of the case, you should not indicate to the court how you stand numerically on the question of the guilt or innocence of the defendants. This caution the jury is to obey at all times after the case is submitted, until the verdict is reached.

Whenever all of your number have agreed upon a verdict, that is the verdict of the jury. In other words, your verdict must be unanimous.

When you retire to the jury room to deliberate, you will select one of your number as foreman or forelady, as the case may be, and he or she will sign your verdict when agreed upon by all of your number, and he or she will act as your spokesman in the future conduct of this case in this court.

Do either counsel wish to note any exceptions to the charge?

Mr. Colvin: No, your Honor.

Mr. McDonald: No, your Honor.

The Court: Ladies and gentlemen of the jury, the clerk has prepared a form of verdict for your convenience which reads as follows:

“We, the jury, find as to the defendants at the bar as follows:

“Clifford J. Judd.”

There is a line after that, and below that appears:

“Frank Edwin Sheley.”

There is a line after that.

After each of those names you will insert the verdict of the jury.

You may now retire. [63]

Let the record show that the jury was about to leave the courtroom and the court wished to give the additional instruction to the jury.

I want to call your attention to this one other instruction, but do not think in so instructing you I am not giving this instruction undue emphasis over any other instruction I have given.

I have overlooked giving this instruction as a part of the body of the instructions, so you are not to attach any more importance to this than any other instruction, but you are to accept it as the law in the case.

There has been some evidence presented in this case that prior to April 19, 1945, which is the date

that the offense alleged in the information was alleged to have taken place, certain conversations were held between the defendant Judd and certain witnesses who testified in the case, and the defendant Sheley was not present at these conversations. As to any conversations by the defendant Judd alone, those conversations are admissible in evidence and may be considered by you only as against defendant Judd, and are not to be considered by you as evidence against the defendant Sheley. To repeat, I am referring now to conversations had by witnesses with the defendant Judd alone. Those conversations may be considered by you as evidence only against the defendant Judd, and not against the defendant Sheley.

Is there any exception to the last instruction given?

Mr. McDonald: No exception. I don't think your Honor instructed the jury on the proposition of a witness convicted of a felony.

The Court: I want to say to you one of the standards to keep in mind along with the standards you can use in judging a witness is, where it appears a witness has been convicted of a [64] felony you will take that into account and you may distrust that testimony and you may give it such weight as you feel it is entitled under all the facts and circumstances of the case.

The jury may now retire.

(Thereupon the jury retired to deliberate

upon its verdict, and subsequently returned to the courtroom with a verdict.)

And not, within due and legal time after the aforesaid judgment, and within the time fixed by the Court for the preparation, service and filing of the Bill of Exceptions, the defendant herein serves, lodges and presents this, his Proposed Bill of Exceptions, to be used upon his appeal heretofore taken to the United States Circuit Court of Appeals from the aforesaid judgment, and prays that the said Bill of Exceptions be, by the Court, settled, approved and allowed, and that the same may be used on the appeal of said defendant to said United States Circuit Court of Appeals.

Dated this.....day of July 1945.

FRED McDONALD

JOSEPH P. LACEY

HARMAN D. SKILLIN

Attorneys for said Defendant

Receipt of a copy of within Bill of Exceptions admitted this 24 day of August 1945.

FRANK J. HENNESSY

United States Attorney

By REYNOLD H. COLVIN

Assistant United States At-  
torney [65]



## STIPULATION

It Is Hereby Stipulated that the foregoing fifty-three pages truly set forth the proceedings upon the trial of the defendant Clifford J. Judd and that they contain, in narrative form, all of the testimony taken upon said trial, together with all objections made by the said defendant and the rulings thereon and the exceptions noted by said defendant, and that the foregoing may be settled, allowed, certified and approved as the Bill of Exceptions in the above entitled matter;

And It Is Further Stipulated that an Order be made by the Court that the Clerk of said Court file the same as a record in said cause and transmit it to the Honorable Circuit Court of Appeals for the Ninth Circuit.

FRANK J. HENNESSY,

United States Attorney.

By REYNOLD H. COLVIN

Assistant United States At-  
torney

.....

Attorney for Plaintiff

JOSEPH P. LACEY

HARMAN D. SKILLIN

FRED McDONALD

Attorneys for Defendant [66]

## ORDER SETTLING BILL OF EXCEPTIONS

Pursuant to the stipulations of counsel, it is hereby ordered that the foregoing document, containing fifty-three pages, lodged with the Clerk of this Court, entitled "Defendant's Proposed Bill of Exceptions" may be and the same is hereby considered to truthfully set forth the proceedings upon the trial of the defendant, Clifford J. Judd and that it contains in narrative form all of the testimony taken at said trial, together with all objections made by said defendant, and the rulings thereon, and the exceptions noted by said defendant, and it may be and is hereby settled, allowed, certified and approved as the Bill of Exceptions in the above entitled matter;

And it is further ordered that the Clerk of the said Court file the same as a record in said cause and transmit it to the Honorable Circuit Court of Appeals for the Ninth Circuit.

Dated this 27th day of August 1945.

I. M. GOODMAN

Judge of said United States  
District Court.

[Endorsed]: Filed Aug. 27, 1945. [67]

[Title of District Court and Cause.]

To the Clerk of the United States District Court:

You will please use the following papers in preparing the transcript on appeal in the above entitled matter:

- (1) Indictment.
- (2) The Plea thereto.
- (3) The Verdict.
- (4) Bill of Exceptions.
- (5) Assignments of Error.

JOSEPH LACEY  
HARMAN D. SKILLIN  
FRED McDONALD

Attorneys for Appellant

[Endorsed]: Filed Nov. 6, 1945. [68]

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District Court of the United States  
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 68 pages, numbered from 1 to 68, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of United States of

America vs. Clifford J. Judd, et al., No. 29407-G, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of \$1.95 and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 27th day of November, A. D. 1945.

[Seal]

C. W. CALBREATH,  
Clerk

By E. VAN BUREN  
Deputy Clerk [69]

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[Endorsed]: No. 11117. United States Circuit Court of Appeals for the Ninth Circuit. Clifford J. Judd, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California Southern Division.

Filed December 11, 1945.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.



At a Stated Term, to wit: The October Term 1944, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the Court Room thereof, in the City and County of San Francisco, in the State of California, on Friday the twenty-fourth day of August in the year of our Lord one thousand nine hundred and forty-five.

Present: Honorable Francis A. Garrecht, Senior Circuit Judge, Presiding, Honorable Clifton Mathews, Circuit Judge, Honorable William Healy, Circuit Judge.

No. 11117

CLIFFORD J. JUDD,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

## ORDER EXTENDING TIME TO SETTLE AND FILE BILL OF EXCEPTIONS

Upon consideration of the application of Mr. Fred McDonald, counsel for appellant, for an extension of time within which to have settled and to file the bill of exceptions on the appeal in the above entitled cause, and of his supporting affidavit, and of the consent of Mr. Frank J. Hennessy, United States Attorney, thereto, and by direction of the Court,

It Is Ordered that the time within which the bill of exceptions herein may be settled and filed be, and hereby is extended to and including August 27, 1945.